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W. THOMAS KELLAHIN*

*NEW MEXICO BOARD OF LEGAL SPECIALIZATION
RECOGNIZED SPECIALIST IN THE AREA OF
NATURAL RESOURCES-OIL AND GAS LAW

JASON KELLAHIN (RETIRED 1991)

November 25, 1998

HAND DELIVERED

Mr. Michael E. Stogner
Hearing Examiner

Rand L. Carroll, Esq.
Division Attorney
Oil Conservation Division
2040 South Pacheco
Santa Fe, New Mexico 87505

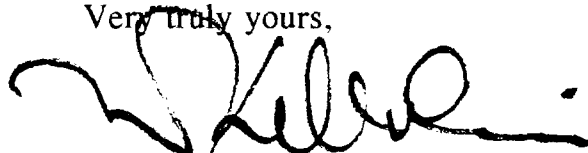
*Mike set Amend as
separate case NO.*

Re: **Motion to Dismiss Case 12051 and
to Strike Texaco's Attempt To Amend Its Application.**
Application of Texaco Exploration and Production, Inc.
for compulsory pooling, an unorthodox gas well location
and a non-standard proration unit, Eddy County, New Mexico

Gentlemen:

On behalf of Matador Petroleum Corporation, an adversely affected interest owner, please find enclosed our MOTION TO DISMISS AND MOTION TO STRIKE the referenced case. This case is currently set on the Examiner's Docket scheduled for December 3, 1998 and is consolidated with Matador's case 12034.

Very truly yours,



W. Thomas Kellahin

cfx: William F. Carr, Esq.
Attorney for Texaco
Matador Petroleum Corporation
Attn: Barry Osborne, Esq.

**STATE OF NEW MEXICO
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT
OIL CONSERVATION DIVISION**

**IN THE MATTER OF THE APPLICATION OF CASE NO. 12051
TEXACO EXPLORATION AND PRODUCTION INC. FOR
COMPULSORY POOLING, AN UNORTHODOX WELL LOCATION
AND A NON-STANDARD PRORATION UNIT,
EDDY COUNTY, NEW MEXICO**

MOTION TO STRIKE

Comes now Matador Petroleum Corporation ("Matador"), by its attorneys, Kellahin and Kellahin, and moves the Division to strike Texaco Exploration and Production Inc.'s ("Texaco") attempt to amend its application because Texaco has violated Section 70-2-17(C) NMSA 1978 by failing to propose to the working interest owners the 853.62 acre non-standard spacing unit upon it bases this amended application for compulsory pooling,

And in support states:

RELEVANT FACTS

1. Irregular Section 1 consists of 853.62 acres and is divided into thirds with the "middle third" of this section being a formerly "unleased" federal oil and gas minerals the surface of which was subject to a federal environmental study. **See Exhibit A attached.**

2. On September 12, 1997, the Division entered Order R-10872 which approved the formation of a 297.88 acre non-standard gas spacing and proration unit (consisting of the southern third of this Section) "because a full sized, as nearly as possible, standard shaped 640-acre spacing and proration unit cannot be formed within this irregularly shaped section since the needed acreage will not be offered by the U.S. Bureau of Land Management for mineral leasing;"

3. In addition, Order R-10872 included the following finding:

"(10) Section 1 of Township 21 South, Range 25 East, NMPM, Eddy County, New Mexico comprises a total area of 853.62 acres consisting of a row of six lots and/or quarter-quarter sections being a legal governmental subdivision therein....A spacing and proration unit for either the requested well locations that would be considered "standard" pursuant to the rules and regulations governing the Catclaw Draw-Morrow Gas Pool would need to incorporate the Lots 11, 12, 13, 14, 25, 26, 27, 28, 29, 30, 31 and 32 and the SW/4 of said Section 1. Even though this area comprises a total of 600.01 acres said area would satisfy the Division's requirements for the formations as near as possible of a standard sized and shaped drilling tract. Also, the oil and gas mineral rights underlying this 600.01 acre drilling tract is under the jurisdiction of the United States government. HOWEVER, the 302.13 acre area that comprises Lots 11,12,13,14,15,16,17 and 28 of said Section 1 ¹ is currently an unleased federal tract that is under additional wildlife restrictions that makes the leasing of this particular area from the U.S. Bureau of Land Management impossible at this time."

4. In December, 1997, the New Mexico Oil Conservation Commission entered Order R-10872-B which confirmed the Division's approval of this 297.88 acre non-standard proration and spacing unit (southern third of Section 1)

5. However, in July, 1998, the U. S. Bureau of Land Management changed its practice concerning the leasing of the 302.13 acre area (middle third of Section 1) and approved this tract for sale by listing it in the competitive oil and gas lease sale.

6. Fasken Land and Minerals, Ltd. was the successful bidder for this lease with the working interest therein now shared among Fasken Land and Minerals, Ltd., Devon Energy Corporation and Matador.

7. By letter dated July 30, 1998, Texaco proposed its Rocky Arroyo Federal Com Well No. 1 as a Morrow well to be dedicated to a non-standard spacing and proration unit consisting of the northern third and the middle third of Section 1. **See Exhibit B.**

¹ this is the description for the "middle third" of Section 1

8. On August 12, 1998, Matador filed its application in Case 12034 seeking an amendment to Order R-10872-B so as to dedicate this middle third of Section 1 to the southern third of Section 1 in order comply with Finding (10) of Order R-10872 by forming a standard spacing and proration unit pursuant to the rules and regulations governing the Catclaw Draw-Morrow Gas Pool.

9. On August 25, 1998, Texaco's filed its compulsory pooling application based upon its July 30, 1998 well and spacing unit proposal and the application was docketed as Case 12051.

10. On August 26, 1998, Texaco asked the Division to consolidate its case with the Matador Case and asked that the consolidated cases be heard on September 17, 1998.

11. On September 1, 1998, Matador concurred in the consolidation and, by agreement of counsel, these cases were continued to October 8, 1998.

12. On September 9, 1998, at the request of Mewbourne Oil Corporation's attorney and with the concurrence of counsel, these two cases were continued to November 5, 1998.

13. These cases are currently set for hearing on December 3, 1998

14. On Tuesday, November 25, 1998, counsel for Texaco and counsel for Matador exchanged data in preparation for the hearing on December 3, 1998.

15. On Wednesday, November 25, 1998, Texaco's counsel delivered to Matador's counsel Texaco's amended application which now seeks to continue Texaco's case to December 17, 1998 and to amend Texaco's application to now include its request that the Division enter a compulsory pooling for all of Irregular Section 1 for a well to be drilled by Texaco.

ARGUMENT

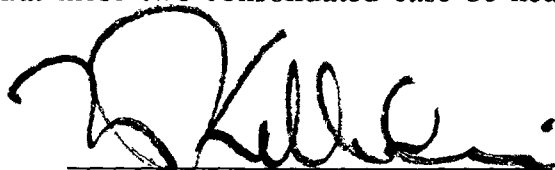
Texaco's amended application is nothing more than a "last minute" blatant attempt to delay the Division's December 3, 1998 hearing and its approval of Matador's application and its denial of Texaco's original application. Texaco knows that Matador and the other working interest owners in the southern two-thirds of this section have reached a voluntarily agreement to form a 600.01 acre gas spacing unit which would satisfy the Division's requirements for the formations as near as possible of a standard sized and shaped drilling tract. Texaco knows that it is seeking the impossible---to compulsory pool acreage which has already been voluntarily committed to a unit. Texaco knows that its amended application seeks the compulsory pooling of a 853.62 acre non-standard gas spacing and proration unit which Texaco has **never** proposed to the affected interest owners. (emphasis added). Texaco knows that it has waited almost three months after it filed its compulsory pooling case and almost 4 months after proposing a different spacing unit to now attempt to amend its case just a week before the hearing.

Contrary to the custom and practice before the Division and in violation of Section 70-2-17(C) NMSA (1978), Texaco seeks to amend its compulsory action against Matador without first making **any** "good faith" effort to voluntarily form this "new" spacing unit. Section 70-2-17(C) NMSA 1978 is very specific in its requirement that the compulsory pooling authority of the Division can only be exercised in those instances where the parties have not agreed to voluntarily pool their interests in a proposed spacing unit. It

is impossible to have exhausted a good faith effort to reach a voluntarily agreement if Texaco has never proposed to Matador the formation of this spacing unit a spacing unit. **For example, see NMOCD Case 11434, Order R-10545 and NMOCD Case 11107. Order R-10242.** It is no solution to suggest that this fatal flaw can be fixed by simply continuing the case and letting the parties discuss it. **See NMOCD Case 11434, Order R-10545.** Such action simply ignores the requirements of Section 70-2-17(C) NMSA 1978 and will encourage others to use amendments to compulsory pooling applications as a negotiating weapon or as a means to delay.

Unless the Division strikes this amended application and requires Texaco to proceed to hearing on December 3, 1998, the Division will be establishing a precedent which will allow applicants to avoid complying with Section 70-2-17(C) NMSA 1978. To allow this amendment will be to reward Texaco for delaying Matador's case while Texaco drains the southern one-third of Irregular Section 1 with its Levers Well No. 2 in Section 12.

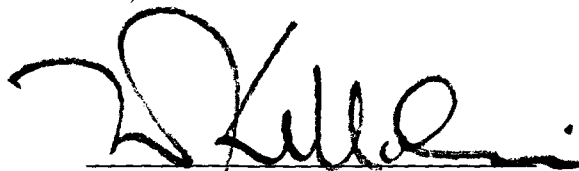
WHEREFORE Matador Petroleum Corporation requests that the Division Hearing Examiner: (a) grant this motion and strike Texaco's attempt to amend its application in Case 12051 and (b) require that these two consolidated case be heard on December 3, 1998.



W. Thomas Kellahin
Kellahin & Kellahin
P. O. Box 2265
Santa Fe, New Mexico 87505

CERTIFICATE OF SERVICE

I certify that a copy of this pleading was transmitted by facsimile to counsel for applicant this 25th day of November, 1998.



W. Thomas Kellahin

Insert

Color Page/Photo

Here



Texaco Exploration
and Production Inc.
Denver Division

P.O. Box 2100
Denver CO 80201
16601 17th Boulevard
Denver CO 80227

RECEIVED AUG 03 1998

July 30, 1998

CERTIFIED MAIL - RETURN RECEIPT REQUESTED P 219 693 177

Matador Petroleum Corporation
8340 Meadow Road, Suite 158 Pecan Creek
Dallas, Texas 75231-3751
Attn: Mona Ables

Texaco's Rocky Arroyo Fed. Com #1 Well
3,200' FNL & 660' FWL of Section 1, T21S, R25E
Catclaw Draw - Morrow Pool
Eddy County, New Mexico

Ladies and Gentlemen,

Texaco Exploration and Production Inc. proposes drilling the Rocky Arroyo Fed. Com #1 well, as a Morrow test, to an approximate total depth of 10,550 feet. The spacing and proration unit for this well will be all of Lots 11-14 and 17-28 of Section 1, T21S, R25E, Eddy County, New Mexico, containing 555.74 acres. We are proposing this well, on a non-standard proration unit, at an unorthodox location of 3,200' FNL & 660' FWL of Section 1, T21S, R25E, Eddy County, New Mexico. We intend to try to obtain a waiver of objection to such location from the necessary offset owner(s). In the event we are unable to obtain the required waiver, we herein propose either going to NMOCD hearing for the unorthodox location or using a legal location of 3,200' FNL & 1650' FWL of said Section 1.

Enclosed for your approval is Texaco's AFE dated July 30, 1998, covering the drilling and completion of the Rocky Arroyo Fed. Com #1 well. Please return an executed copy of the AFE to my attention in the event you choose to participate in drilling this well. We propose using an AAPL Model Form operating agreement, and will furnish one for your review when we have received your executed AFE, or earlier upon your request.

If you choose not to participate in the well, then we would like to talk with you about taking a farmout or purchasing your interest under this proposal.

Thank you for your consideration of our offer. Please contact me at your earliest convenience so we can discuss this matter.

Very truly yours,

David L. Sleeper
(303) 793-4512
Permian Business Unit
Dls

Enclosure (AFE)

